



# General Assembly

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## Third Committee

Agenda item 68 (b)

### **Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

**Albania, Argentina, Armenia, Austria, Belgium, Brazil, Bulgaria, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Latvia, Lebanon, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, Norway, Panama, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and Switzerland: draft resolution**

### **Human rights in the administration of justice**

*The General Assembly,*

*Bearing in mind* the principles embodied in articles 3, 5, 8, 9 and 10 of the Universal Declaration of Human Rights<sup>1</sup> and the relevant provisions of the International Covenant on Civil and Political Rights and the Optional Protocols thereto,<sup>2</sup> in particular articles 6, 7, 9 and 10 of the Covenant, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto,<sup>3</sup> the International Convention for the Protection of All Persons from Enforced Disappearance,<sup>4</sup> the Convention on the Elimination of All Forms of Discrimination against Women,<sup>5</sup> in particular article 2 (c) thereof, the Convention on the Rights of the Child,<sup>6</sup> in particular articles 37, 39 and 40 thereof, and the International Covenant on Economic, Social and Cultural Rights,<sup>7</sup> as well as all other relevant international treaties,

*Calling attention* to the numerous international standards in the field of the administration of justice,

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<sup>1</sup> Resolution 217 A (III).

<sup>2</sup> See resolution 2200 A (XXI), annex; and United Nations, *Treaty Series*, vol. 1642, No. 14688.

<sup>3</sup> United Nations, *Treaty Series*, vol. 1465, No. 24841, and vol. 2375, No. 24841.

<sup>4</sup> Resolution 61/177, annex.

<sup>5</sup> United Nations, *Treaty Series*, vol. 1249, No. 20378.

<sup>6</sup> *Ibid.*, vol. 1577, No. 27531.

<sup>7</sup> See resolution 2200 A (XXI), annex.



*Recalling* all the resolutions of the General Assembly, the Human Rights Council, the Commission on Human Rights and the Economic and Social Council that are relevant to the subject of human rights in the administration of justice, including General Assembly resolutions 65/213 of 21 December 2010 and 67/166 of 20 December 2012 and Human Rights Council resolutions 18/12 of 29 September 2011<sup>8</sup> and 24/12 of 26 September 2013,<sup>9</sup>

*Recalling also* its resolution 67/1 of 24 September 2012, entitled “Declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels”,

*Welcoming* the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities,<sup>10</sup>

*Welcoming also* the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>11</sup>

*Welcoming further* the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>12</sup>

*Welcoming* the work of all special procedures of the Human Rights Council that address human rights in the administration of justice in the discharge of their mandates,

*Taking note* of the work of all human rights treaty body mechanisms on human rights in the administration of justice, in particular of general comments No. 21 on the humane treatment of persons deprived of their liberty<sup>13</sup> and No. 32 on the right to equality before courts and tribunals and to a fair trial,<sup>14</sup> adopted by the Human Rights Committee, and general comments No. 10 on children’s rights in juvenile justice<sup>15</sup> and No. 13 on the right of the child to freedom from all forms of violence,<sup>16</sup> adopted by the Committee on the Rights of the Child,

*Noting with appreciation* the important work in the field of the administration of justice of the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme, the United Nations Children’s Fund, the Department of Peacekeeping Operations of the Secretariat and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) as well as the work of the Special Representative of the Secretary-General on Violence against Children and the Special Representative of the Secretary-General for Children and Armed Conflict,

*Welcoming* the thematic report by the Special Representative of the Secretary-General on Violence against Children entitled “Promoting restorative justice for children”,

<sup>8</sup> See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53A* and corrigendum (A/66/53/Add.1 and Corr.1), chap. II.

<sup>9</sup> *Ibid.*, *Sixty-eighth Session, Supplement No. 53A (A/68/53/Add.1)*, chap. III.

<sup>10</sup> A/68/213/Add.1.

<sup>11</sup> Resolution 65/229, annex.

<sup>12</sup> Resolution 67/187, annex.

<sup>13</sup> *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40)*, annex VI.B.

<sup>14</sup> *Ibid.*, *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex VI.

<sup>15</sup> *Ibid.*, *Sixty-third Session, Supplement No. 41 (A/63/41)*, annex IV.

<sup>16</sup> *Ibid.*, *Sixty-seventh Session, Supplement No. 41 (A/67/41)*, annex V.

*Noting with satisfaction* the work of the Interagency Panel on Juvenile Justice and of its members, in particular their coordination in providing technical advice and assistance in juvenile justice, and the active participation of civil society in their respective work,

*Encouraging* continued regional and cross-regional efforts, the sharing of best practices and the provision of technical assistance in the field of juvenile justice, and noting in this regard the initiative to convene a world congress on juvenile justice in Geneva from 26 to 30 January 2015,

*Convinced* that the independence and impartiality of the judiciary and the integrity of the judicial system as well as an independent legal profession are essential prerequisites for the protection of human rights, the rule of law, good governance and democracy and for ensuring that there is no discrimination in the administration of justice and should therefore be respected in all circumstances,

*Recalling* that every State should provide an effective framework of remedies to redress human rights grievances or violations,

*Emphasizing* that the right to access to justice for all forms an important basis for strengthening the rule of law through the administration of justice,

*Mindful* of the importance of ensuring respect for the rule of law and human rights in the administration of justice as a crucial contribution to building peace and justice and ending impunity,

*Recognizing* the importance of the principle that, except for those lawful limitations that are demonstrably necessitated by the fact of incarceration, persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms,

*Recalling* that the social rehabilitation and reintegration of persons deprived of their liberty shall be among the essential aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead a law-abiding and self-supporting life upon their return to society,

*Aware* of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

*Reaffirming* that children who are victims and witnesses of crime and violence are particularly vulnerable and require special protection, assistance and support appropriate to their age, level of maturity and needs, in order to prevent further hardship and trauma that may result from their participation in the criminal justice process,

*Recognizing* the specific situation and needs of children formerly associated with armed forces or armed groups when accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups,

*Reaffirming* that the best interests of the child shall be a primary consideration in all decisions concerning the child in the administration of justice, including in relation to pretrial measures, as well as being an important consideration in all matters concerning the child related to sentencing of his or her parents, or, where applicable, legal guardians or primary caregivers,

1. *Welcomes* the most recent report of the Secretary-General;<sup>17</sup>
2. *Takes note with appreciation* of the reports of the United Nations High Commissioner for Human Rights on the protection of human rights of juveniles deprived of their liberty<sup>18</sup> and on access to justice for children<sup>19</sup> and the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system,<sup>20</sup> submitted to the Human Rights Council;
3. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;
4. *Reiterates its call* upon all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards;
5. *Invites* States to make use of technical assistance offered by the relevant United Nations entities and programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice;
6. *Appeals* to Governments to include, in their national development plans, equal access to and effective administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal aid services with a view to promoting and protecting human rights, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;
7. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular through reform of the judiciary, the police and the penal system, as well as juvenile justice reform, including in informal justice systems, in order to establish and maintain stable societies and the rule of law in post-conflict situations, and welcomes the role of the Office of the High Commissioner in supporting the establishment and functioning of transitional justice mechanisms in post-conflict situations;
8. *Reaffirms* that no one should be unlawfully or arbitrarily deprived of his or her liberty, and recalls the principles of necessity and proportionality in this regard;
9. *Calls upon* States to ensure that anyone who is deprived of his or her liberty has prompt access to a competent court with the effective power to determine the lawfulness of the detention and to order release if the detention or imprisonment is determined not to be lawful, as well as prompt access to legal counsel, in accordance with their international obligations and commitments;
10. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

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<sup>17</sup> [A/68/261](#).

<sup>18</sup> [A/HRC/21/26](#).

<sup>19</sup> [A/HRC/25/35](#).

<sup>20</sup> [A/HRC/21/25](#).

11. *Notes* the work of the open-ended intergovernmental expert group to exchange information on best practices, as well as on national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners, reiterating that any changes should not lower any existing standards but should reflect recent advances in correctional science and best practices, as well as human rights standards, and in this regard invites the expert group to continue to benefit from the expertise of the United Nations Office on Drugs and Crime and of the Office of the High Commissioner and other relevant stakeholders;

12. *Recalls* the absolute prohibition of torture in international law, and calls upon States to address and prevent the detention conditions, treatment and punishment of persons deprived of their liberty that amount to cruel, inhuman or degrading treatment or punishment;

13. *Calls upon* States to investigate promptly, effectively and impartially all alleged human rights violations suffered by persons deprived of their liberty, in particular cases involving death, torture and cruel, inhuman or degrading treatment or punishment, and to provide effective remedies to the victims;

14. *Urges* States to endeavour to reduce, where appropriate, pretrial detention, inter alia, by adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives and by taking measures aimed at the implementation of existing legislation, as well as by ensuring access to justice and legal advice and assistance;

15. *Encourages* States to address overcrowding in detention facilities by taking effective measures, including through enhancing the use of alternatives to pretrial detention and custodial sentences where possible, access to legal aid and the efficiency as well as the capacity of the criminal justice system and its facilities;

16. *Welcomes* the panel discussion on the protection of the human rights of persons deprived of their liberty, held during the twenty-seventh session of the Human Rights Council, which contributed to the identification of challenges and good practices for ensuring the protection of the rights of persons deprived of their liberty, in particular with regard to judicial oversight of detention, overcrowding and overuse of detention, including by examining the use of pretrial detention and alternatives to detention;

17. *Continues to encourage* States to pay due attention to the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)<sup>11</sup> when developing and implementing relevant legislation, procedures, policies and action plans, and invites relevant special procedure mandate holders, the Office of the High Commissioner, the United Nations Office on Drugs and Crime and all other relevant organizations to take those rules into consideration in their activities;

18. *Recognizes* that every child and juvenile alleged as, accused of or recognized as having infringed the law, particularly those who are deprived of their liberty, and child victims and witnesses of crimes, must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, bearing in mind relevant international standards on human rights in the administration of justice, taking into account also the gender, social circumstances and

development needs of such children, and calls upon States parties to the Convention on the Rights of the Child<sup>6</sup> to abide strictly by its principles and provisions;

19. *Welcomes* the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice,<sup>21</sup> and urges States to apply them in the design, implementation, monitoring and evaluation of laws, policies, programmes, budgets and mechanisms aimed at eliminating violence against children in the field of crime prevention and criminal justice;

20. *Also welcomes* the global programme on violence against children in the field of crime prevention and criminal justice recently developed by the United Nations Office on Drugs and Crime and the United Nations Children's Fund, and encourages Member States and other relevant stakeholders to support and to benefit from this programme;

21. *Encourages* States that have not yet integrated children's issues into their overall rule of law efforts to do so and to develop and implement a comprehensive and coordinated juvenile justice policy to prevent and address risks and root causes for children's contact with the juvenile and/or criminal justice system, as well as with a view to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and complying with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

22. *Stresses* the importance of including reintegration strategies for former child offenders in juvenile justice policies, in particular through gender-sensitive education and life skills programmes, as well as treatment and services for substance abuse and mental health problems, with a view to their assuming a constructive role in society;

23. *Urges* States to take all necessary and effective measures, including legal reform where appropriate, to prevent and respond to all forms of violence against children within the justice system;

24. *Also urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release nor corporal punishment is imposed for offences committed by persons under 18 years of age, and urges States to repeal all other forms of life imprisonment for offences committed by persons under 18 years of age;

25. *Encourages* States not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of the child, and in this respect refers to the recommendation of the Committee on the Rights of the Child to increase the lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level;<sup>15</sup>

26. *Also encourages* States to collect relevant information, including through data collection and research, concerning children within their criminal justice systems so as to improve their administration of justice, while being mindful of the

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<sup>21</sup> Economic and Social Council resolution 2014/18, annex.

children's right to privacy, with full respect for relevant international human rights instruments, and bearing in mind applicable international standards on human rights in the administration of justice;

27. *Recognizes* the crucial role of children's access to justice in the protection and promotion of children's rights, while noting with interest the summary report on the full-day meeting of the Human Rights Council on the rights of the child, held on 13 March 2014, on the theme "Access to justice for children";<sup>22</sup>

28. *Stresses* the importance of paying greater attention to the impact of the imprisonment or sentencing to death of parents on their children, while noting with interest the day of general discussion on the situation of children of prisoners, held by the Committee on the Rights of the Child on 30 September 2011, as well as the summary report on the full-day meeting of the Human Rights Council on the rights of the child, held on 8 March 2012, on the theme "Children and the administration of justice",<sup>23</sup> and the summary report on the panel discussion of the Human Rights Council, held on 11 September 2013, on the human rights of children of parents sentenced to the death penalty or executed;<sup>24</sup>

29. *Invites* Governments to provide for tailored and interdisciplinary human rights training, including anti-racist, multicultural, gender-sensitive and child rights training, to all judges, lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences;

30. *Encourages* the regional commissions, the specialized agencies, United Nations institutes active in the areas of human rights and crime prevention and criminal justice, and other relevant parts of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field, and other segments of civil society, including the media, to continue to develop their activities in promoting human rights in the administration of justice;

31. *Invites* States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations entities and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

32. *Invites* the Human Rights Council and the Commission on Crime Prevention and Criminal Justice, as well as the Office of the High Commissioner, the Special Representative of the Secretary-General on Violence against Children and the United Nations Office on Drugs and Crime, to continue to closely coordinate their activities relating to the administration of justice;

33. *Invites* the Office of the High Commissioner and the United Nations Office on Drugs and Crime to reinforce, within their respective mandates, their activities relating to national capacity-building in the field of the administration of justice, in particular in post-conflict situations, and in this context to strengthen cooperation with relevant United Nations entities;

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<sup>22</sup> [A/HRC/27/25](#).

<sup>23</sup> [A/HRC/21/31](#).

<sup>24</sup> [A/HRC/25/33](#).

34. *Underlines* the importance of rebuilding and strengthening structures for the administration of justice and of respecting the rule of law and human rights, including in post-conflict situations, as a crucial contribution to building peace and justice and ending impunity, and in this respect requests the Secretary-General to further streamline and strengthen system-wide coordination and coherence of programmes and activities of the relevant parts of the United Nations system, including through the Rule of Law Coordination and Resource Group chaired by the Deputy Secretary-General and the Rule of Law Unit in the Executive Office of the Secretary-General;

35. *Invites* States, in the context of the universal periodic review mechanism and in their reports under international human rights treaties, to consider addressing the promotion and protection of human rights in the administration of justice;

36. *Invites* relevant special procedure mandate holders of the Human Rights Council, as well as relevant treaty bodies, to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, wherever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

37. *Requests* the Secretary-General to submit to the General Assembly at its seventy-first session a report on the latest developments, challenges and good practices in human rights in the administration of justice and on the activities undertaken by the United Nations system as a whole;

38. *Decides* to continue its consideration of the question of human rights in the administration of justice at its seventy-first session under the item entitled "Promotion and protection of human rights".

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